

EXCEPTION



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BEFORE THE ARIZONA CORPORATION COMMISSION

2002 MAY -8 P 3:47

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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

MAY 08 2002

IN THE MATTER OF :
TOWER EQUITIES, INC.
8141 N. Main Street
Dayton, Ohio 45415-1747,

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DOCKET NO. S-03439A-00-0000

PHILIP A. LEHMAN
Tower Equities, Inc.
8141 N. Main Street
Dayton, OH 45451-1747,

Respondents.

**EXCEPTIONS OF COMPLAINANTS TO RECOMMENDED
OPINION AND ORDER ON THE REQUEST FOR
REHEARING OF DECISION NO. 64559**

Tower Equities, Inc. ("Tower") and Philip A. Lehman ("Lehman"), the
Complainants in the above-captioned matter, hereby submit their Exceptions to the
Administrative Law Judge's Recommended Opinion and Order ("Recommended Order")
as to their Application for Rehearing/Reconsideration of Decision No. 64559. The
Complainants object to the following Conclusions of Law, Numbers 2 and 3:

...

...

1 "2. The Respondents have not demonstrated adequate grounds to justify further
2 review of the Decision pursuant to A.A.C. R14-3-112;

3 3. The Application of Tower and Mr. Lehman should be denied."

4 Complainants ask the Commission to amend its recommendation to permit a
5 rehearing.

6 **RESPONDENTS HAVE DEMONSTRATED ADEQUATE GROUNDS**
7 **TO JUSTIFY FURTHER REVIEW**

8 In Paragraph 44 of Decision No. 64559, the Commission revokes the license of
9 Tower in Arizona and in paragraph 43 of Decision No. 64559, it revokes the license of
10 Lehman. The Respondents in its Application for Rehearing are asking for a rehearing of
11 Decision 64559 pursuant to A.R.S. 14-3-112 (5). A.R.S. 14-3-112(5) permits a rehearing
12 if the penalties are excessive in light of the conduct of the Respondents. Respondents
13 argue that the penalties are excessive for the following reasons:
14

- 15 1. No other state has brought an action against the company, Tower, including its
16 home state of Ohio;
- 17 2. No investors at all were harmed in the offering, and in fact, received all of their
18 money back with interest;
- 19 3. Not a single resident of Arizona invested in any of the offerings referenced in Decision
20 No. 64559; and
- 21 4. The Decision does not comport with its other decisions in relation to registered securities
22 salesmen and entities.
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RESPECTFULLY SUBMITTED this 8th day of May, 2002.

Barbara A. Mallon /ss/ F.S.

Original and ten copies of the foregoing filed this 8th day of May, 2002, with:

Copy of the foregoing mailed,
e-mailed or hand-delivered
this 8th day of May, 2002, to:

Judith Y. Borrego
Judith Y. Borrego